

# **Exhibit A**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

Casa Tradición S.A. de C.V.,

Plaintiff,

v.

Casa Azul Spirits, LLC,

Defendant.

Civil Action No. 4:22-cv-02972

**DECLARATION OF DR. ISABELLA CUNNINGHAM**

I, Isabella Cunningham, declare under penalty of perjury as follows:

1. My name is Isabella Cunningham. I am over eighteen (18) years of age. I am fully competent to make this declaration. I have personal knowledge of the facts stated herein and if called as a witness could and would competently testify to them.

2. I was asked by counsel for Plaintiff, Casa Tradición S.A. de C.V., to conduct a review of the survey and conclusions documented in the Declaration of Matthew G. Ezell (Doc. 22-8) and Appendices (Doc. 22-9).

3. I hold the Stan Richards Chair in Advertising and Public Relations in the Moody College of Communications at The University of Texas at Austin, in Austin, Texas. I am the past Chair of the Advertising and Public Relations Department in the Moody College of Communications, a position I held for 20 years. I am the author and coauthor of several books and numerous academic articles in marketing and advertising. I have also published several papers in academic proceedings and have made numerous presentations to both academic and professional

audiences.

4. I have taught marketing and advertising courses at The University of Texas for the past 40 years and have served as Chair of the Department of Advertising from 1978 to 1985 and from 2001 to 2013. Before joining the faculty at The University of Texas, I was an Assistant Professor of Marketing and the Acting Dean of the Business School at St. Edward's University.

5. I have been a marketing and advertising consultant to several businesses and have been retained as an expert witness in several lawsuits. I have offered expert opinions and have been deposed and/or testified in several of them. A short list of the cases in which I have testified/served as a witness in the past five years is shown in **Exhibit A**. A complete professional and academic resume is shown in **Exhibit B**.

6. As outlined in greater detail below, in my opinion the Ezell Survey is flawed in four major aspects which jeopardize the accuracy of Mr. Ezell's survey results. Summarized, the four major flaws in the Ezell Survey are: (1) Mr. Ezell's survey is nothing more than a reading test; (2) lack of a control group; (3) overinclusive universe of participants; and (4) improper order of questions. In my opinion, these identified flaws negate the reliability of Ezell's survey results.

7. This declaration is based on my preliminary review of The Ezell Declaration and Appendices. I reserve the right to supplement this declaration.

**I. Mr. Ezell's Likelihood of Confusion Survey is nothing more than a reading test.**

8. According to Ostberg: "...a "reading " test is where the materials that contain the possible answer to the question remain in front of the respondent while the questions of the survey are being asked and a "memory" test is where those materials are removed before the questions are asked. In the reading test, respondents are able to "read" the answers to the questions they are asked by looking at what is in front of them; whereas in a memory test, they must use their memory

to recall what they have seen previously.” ( Henry D. Ostberg, Response to the Article Entitled: “A ‘Reading’ Test or a ‘Memory’ Test: Which Survey methodology Is Correct?”, TMR, vol 95, Nov. 2022, p. 1446).

9. Ostberg adds: “..the reading test departs from normal marketplace conditions. With the products, advertisements or marks at issue remaining in front of them, the respondents in a reading test are able to go back and *search for* the information called for by the question asked.” (p.1448).

10. Mr. Ezell’s Likelihood of Confusion measurement is in fact nothing more than a reading test. The Ezell Survey placed the image of the Defendant’s CASA AZUL products with the mark CASA AZUL prominently displayed (the Stimulus) before the survey respondents while asking them to answer the probative questions regarding “source”, “permission” and “affiliation”. Survey participants merely parroted back what they read on the container or on the package. This is proven by the fact that 62% of the people who provided an answer to the “source” question said Casa Azul. The reason they said Casa Azul is that they read the words on the images they were shown while answering the questions.

11. In the Ezell Survey, the participants were asked: “Who do you believe makes or puts out this product?” followed by “Why do you say that?”

12. The Ezell Survey results reveal that the participants who responded “Casa Azul” read the name “Casa Azul” off the stimulus.

13. This is evidenced by the participants’ responses to the “Why do you say that?” question. *See* Doc. 22-9 at 11-13 (participant’s answers to why they said Casa Azul puts out the product displayed on the screen: “Because it’s clear from the packaging” . . . “it says it on the box” . . . “that’s what it says” . . . “it says on the box” . . . “the name on the box” . . . “it says it

right in the box” . . . “it’s on the box” . . . etc.).

14. The Ezell Survey merely tested the participants’ ability to read the name “Casa Azul” off the stimulus. Reading test surveys are not indicative of whether or not there is a likelihood of confusion between two marks. *See Louis Vuitton Malletier v. Dooney & Bourke, Inc.*, 525 F. Supp. 2d 558, 628-29 (S.D.N.Y. 2007) (“courts have, rightly we believe, held that surveys in which the respondents are able to read the name of the manufacturer on the product are not probative of consumer confusion.”); *See Franklin Res., Inc. v. Franklin Credit Mgmt. Corp.*, 988 F. Supp. 322, 335 (S.D.N.Y. 1997) (“Surveys which do nothing more than demonstrate the respondents’ ability to read are not probative on the issue of likelihood of consumer confusion.”).

## **II. Lack of Control**

15. A proper research procedure is to conduct a control survey at the same time the test survey is being fielded. Controls must be run at the same time the tests are conducted because a delay may introduce contamination factors that occur in the environment. Mr. Ezell first evaluated the results of his survey and then concluded he would not need to run a control survey. This is very poor research practice.

16. The purpose of controls is to eliminate “noise” or guess from the results of a survey.

17. “To get a credible prediction of real-world behavior, we need to be able to separate out the survey artifacts from the real-world behavior. Thus, for a survey to be useful it is necessary to get a reliable estimate of the contribution of the ‘survey artifacts’ to the results. This estimate can then be subtracted from the survey results.” Rappoport, M. “Design Issues for Controls” in: Diamond, S.S. and Swann, J.B. *Trademarks and Deceptive Advertising Surveys: Law, Science and Design*, ABA Publishing, 2012, p. 221.

18. “The primary purpose of controls is to provide such an estimate of the survey



artifacts so that they can be accounted for in the analysis” *Id.*

19. “There is sometimes ‘general background noise’ in survey figures and a control is necessary to identify this. ‘Noise’ could consist of respondents answering with their preexisting views rather than focusing on the survey stimulus. Some respondents may be ‘yes’ people who readily agree with any assertion made in a survey statement or question. In addition, there will always be some interviewees who quickly guess in a response because they are bored or hurried. These kinds of responses contribute to background noise and static in the numerical results. These must be filtered out through control questions.” McCarthy on Trademarks and Unfair Competition § 32:187 at 32:488–32:489 (2016).

20. The Ezell Survey did not include a control group. Ezell expressly states that a control was not conducted.

21. The lack of a control group taints the reliability of Ezell’s results. Without a control group, there is no basis to conclude the Ezell Survey participants were not guessing or that the Ezell Survey is not impacted by noise.

### **III. Overinclusive Universe**

22. The universe from which the sample of respondents is drawn cannot be either overinclusive or underinclusive. A universe is overinclusive if it includes not only the individuals whose state of mind is relevant to the issue at hand, but also individuals whose state of mind is not. As an example, if a universe were to include individuals who have not bought and do not plan to buy the accused product, it would be overinclusive.

23. Ezell cites the following with regard to selecting a survey universe: William G. Barber and Giulio E. Yaquinto, *The Universe in TRADEMARK AND DECEPTIVE ADVERTISING SURVEYS: LAW, SCIENCE, AND DESIGN* 32-33, (American Bar

Association 2022) (“The appropriate universe should include a fair sampling of those purchasers most likely to partake of the alleged...goods or services.’ The reason for this rule is clear – in cases alleging forward confusion, what is at issue is whether the junior user’s mark is likely to confuse consumers. In order to fairly test that issue, one must look at those consumers likely to encounter the junior user’s mark in the marketplace.”)

24. Ezell’s universe does not comply with the standard principles of survey universes for forward confusion Eveready surveys, including the source cited by Mr. Ezell in his declaration.

25. The Ezell universe of participants was “defined as males and females 21 years of age and older living in the United States who indicated that they were likely to purchase a ready-to-drink *canned cocktail* in the next 6 months.” Doc. 22-8 at pp 16 (emphasis added).

26. Ezell’s universe was not tailored to include only people who are likely to purchase tequila soda. A ready-to-drink canned cocktail is not the equivalent of tequila soda. There are purchasers who will buy some types of canned cocktails, but do not like tequila and would never buy Defendant’s tequila soda product.

27. The Ezell Survey included no questions or other criteria to ensure that participants are likely to purchase a tequila soda product.

28. By setting a universe that likely includes persons who do not drink or purchase either party’s product, the Ezell Survey fails to provide results that reliably demonstrate whether there is a likelihood of confusion between the parties’ marks.

#### **IV. Improper Order of Questions**

29. Ezell asked participants in Table 3 “Do you believe that whoever makes or puts out this product. . . ? a. HAS the sponsorship or approval of any other company(s) or brand(s) b. Does NOT have sponsorship or approval of any other company(s) or brand(s).” See Doc. 22-8 at 11.

30. Ezell then asked participants in Table 4 “Do you believe that whoever makes or puts out this product. . . ? a. HAS a business affiliation or business connection with any other company(s) or brand(s) b. Does not have a business affiliation or business connection with any other company(s) or brand(s). *Id.* at 12.

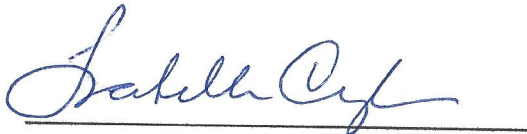
31. The Ezell Survey should have asked participants the affiliation/connection question before asking participants the sponsorship/approval questions. By asking first whether the product shown in the survey needs approval/sponsorship from the other companies, consumers are conditioned to believe the product is not affiliated/connected with the other companies because approval/sponsorship would not be necessary if the product was affiliated/connected with one of the other companies.

32. I am being compensated for my work at the rate of \$600.00 per hour. My compensation is not contingent on the outcome of this matter or the opinion that I express.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED: November 22, 2023

Austin, Texas

A handwritten signature in blue ink, appearing to read "Isabella C.", is written over a horizontal line.

Dr. Isabella Cunningham



# Exhibit A

**Dr. Isabella Cunningham**  
**Stan Richards Chair in Advertising and Public Relations Strategy**

The University of Texas at Austin  
1412 Barton Creek Boulevard, Austin TX 78735  
Office (512) 471-8126, Cell (512) 844-8009

**ACADEMIC DATA**

J.D. - Faculdade de Direito da Universidade Catolica de Sao Paulo, Sao Paulo, Brasil, 1964

M.B.A. - Marketing - Escola de Administracao de Empresas de Sao Paulo, da Fundacao Getulio Vargas, Sao Paulo, Brasil, 1966

M.B.A. - Marketing - Michigan State University, 1968

Ph.D. - Marketing, with cognate areas in Economics, Physical Distribution and Communication - Michigan State University, 1972

**TEACHING EXPERIENCE**

Stan Richards Chair in Advertising and Public Relations, The University of Texas at Austin, September 2015 to present.

Ernest A. Sharpe Centennial Professor in Communication, The University of Texas at Austin, 1983 to 2015.

Professor of Advertising, Department of Advertising, The University of Texas at Austin, 1981 to present.

Associate Professor of Advertising, Department of Advertising, The University of Texas at Austin, 1976 to 1981.

Assistant Professor of Advertising, Department of Advertising, The University of Texas at Austin, 1974 to 1976.

Visiting Assistant Professor of Marketing, Department of Marketing Administration, The University of Texas at Austin, 1973 to 1974.

Assistant Professor of Marketing, Center of Business Administration, St. Edward's University, Austin, Texas, 1971 to 1972.

Assistant Professor of Marketing, Escola de Administracao de Empresas de Sao Paulo da Fundacao Getulio Vargas, Sao Paulo, Brasil, 1969 to 1971.

Teaching Assistant in Marketing, Michigan State University, East Lansing, Michigan, 1968 to 1969.

### **ADMINISTRATIVE DUTIES**

#### ***(At The University of Texas at Austin)***

Academic Director, UT Tower Fellows Program, McCombs School of Business, 2018-Present.

School Credit Evaluator, Texas Global International Office, 2020-Present.

Member, PhD Admissions, 2020-2021.

Supervisor, Stan Richards Sports Media Certificate, 2015-2019.

Supervisor, Stan Richards Student Internship Program, 2003-Present.

Member, The University of Texas Recreational Sports Committee, 2016-2017.

Member, Moody College Internship Coordination Workgroup, 2016-2017.

Chair, University of Texas Admission and Registration Committee, elected by members of the Faculty Council, 2015-2016.

Member, Distance and Continuing Education Work Group, Moody College of Communication, 2015-2016.

Member, Moody College Promotion and Tenure Committee, 2014-2016.

Chair, Department of Advertising, September 2002 to 2014. In addition to the duties required of the Chair, traveled to New York, Chicago, Dallas, Los Angeles, San Francisco, and overseas to acquire and secure funding for scholarships and internships. Also, traveled extensively to do major fundraising for the College and Department.

Chairman, University of Texas Enrollment Task Force Review, appointed by President Powers, 2008 to 2014. Charged with reviewing progress made on enrollment for The University and with making new recommendations for continued improvement.

Member, University of Texas Admission and Registration Committee, elected by members of the Faculty Council, 2007 to 2008 and 2008 to 2015, Chair of the University of Texas Admission and Registration Committee, 2015-2016.

Member of the Rules and Regulations Committee of the University Faculty Council 2014-2016.

Member, University of Texas Committee for Graduation. Elected by Faculty Council, 2007-2008

Member, Jackson School Committee for Promotion and Tenure, appointed by President Faulkner, 2005 to 2008.

Chairman, University of Texas Enrollment Task Force, appointed by President Faulkner, October 2003 to May 2004. Developed a plan for achieving optimum enrollment at The University.

Chairman, University of Texas Enrollment Task Force, appointed by President Powers, October 2006 to May 2008.

Member, University of Texas Women's Athletics Hall of Fame Committee, 2001 to present.

Member of the Board, University Coop, 2003 to 2007.

Member, Administrative Council, Moody College of Communication, 2002 to 2014.

Chairman of the Board, University Co-op, 1970 to 1979, 1981 to 1982.

Graduate Advisor, Department of Advertising, 1976 to 1978.

Acting Chair, Department of Advertising, Spring/Summer 1978.

Chair, Department of Advertising, 1978 to 1985.

Member, Administrative Council, College of Communication, 1978 to 1985.

Chair, Women's Athletic Council, 1980 to 1985.

Member, Texas Student Publications Board of Operating Trustees, 1982 to 1984.

College of Communication Minority Liaison Officer for Department of Advertising, 1990 to 1991.

Member, Advisory Board, Institute of Latin American Studies, 1982 to present.

PCL Representative for Department of Advertising, 1991 to 2010.

Director for International Programs, St. Edward's University College of Communication, 1995-2000.

Member of the Board, St. Edward's University, 1985 to 2008.

Member of the Facilities Committee, and the Finance Committee of the Board, St. Edward's University, 1985 to 2006.

Acting Dean, Center of Business Administration, St. Edward's University, Austin, Texas, 1972 to 1973.



## **PUBLICATIONS**

### ***(Books)***

1. (With W.H. Cunningham and R.M. Moore) A Study of Consumer Behavior in Brazil, monograph, the Bureau of Business Research, The University of Texas at Austin, 1976.
2. (With W.H. Cunningham and W.J.E. Crissy) Selling: The Personal Force in Marketing, Wiley-Hamilton, 1977.
3. (With W.H. Cunningham and W.J.E. Crissy) Effective Selling, J. Wiley and Sons, 1977.
4. (With G. Kozmetsky) Investment Management: A Book of Readings, The University of Texas Press, 1979.
5. (With W.H. Cunningham) Marketing: A Managerial Approach, Southwestern Publishing Company, 1980, 2nd ed., 1987.
6. (With W.J.E. Crissy and W.H. Cunningham) Metodos Efectivos de Venta, Mexico: Editorial Limusa, 1980.
7. (With W.H. Cunningham and D.W. Jackson, Jr.) Selling: The Personal Force in Marketing (Revised) J. Wiley and Sons, 1988.
8. (With J. Murphy) Advertising and Marketing Communication Management, Dryden Press, 1993.
9. (With Pei-Fen Li) Consumer Information Search and Decision Processes in a Web-Based Shopping Environment-A Monograph, 2009.
10. (With Zhenghua Sara Ye) An Exploratory Study of Search Advertising in China-A Monograph, 2009.
11. (With J. Murphy, L. Stavchansky de Lewis) Integrated Brand Promotion Management: Cases, Text, and Exercises, Kendall Hunt Publishing, 2011.

## **PUBLICATIONS**

### ***(Articles)***

1. (With W.H. Cunningham) "The Urban In-Home Shopper: Socio-economic and Attitudinal Characteristics," *Journal of Retailing*, Vol. 49, Number 3, Fall 1973.
2. (With R.T. Green and W.H. Cunningham) "A Cross-Cultural Study of Subjective Product Attributes," in *Proceedings of the Association of Consumer Research*, November 1973.

3. (With R.M. Moore and W.H. Cunningham) "Urban Markets in Industrializing Countries: The Sao Paulo Experience," *Journal of Marketing*, Vol. 38, Number 2, April 1974.
4. (With R.T. Green) "Family Purchase Decisions: Substantial Changes Could Result from Women's 'Liberated' Attitudes," in *Proceedings from the Research Seminar in Marketing*, France, June 1974.
5. (With W.H. Cunningham and W. English) "Socio-psychological Characteristics of Undergraduate Marijuana Users," *Journal of Genetic Psychology*, Fall 1974.
6. (With R.T. Green) "Purchasing Roles in the U.S. Family, 1955 and 1973," *Journal of Marketing*, October 1974.
7. (With R.T. Green and W.H. Cunningham) "The Effectiveness of Standardized Global Advertising: A Cross-Cultural Research," *Journal of Advertising*, Vol. 4, Number 3, p. 25, Summer 1975.
8. (With R.T. Green) "Feminine Role Perception and Family Purchasing Decisions," *Journal of Marketing Research*, August 1975, p. 325.
9. (With W.H. Cunningham) "Consumer Protection: More Information or More Regulations?" *Journal of Marketing*, April 1976.
10. (With R.T. Green) "The Impact of Wives' Employment on Family Purchasing Roles," *Journal of Business Research*, October 1976.
11. Book Review of "The Female Consumer" by Rosemary Scott, in *Journal of Marketing*, Vol. 41, Number 3, July 1977, pp. 141-142.
12. (With W.H. Cunningham) "Standards for Advertising Regulation: The Least Reasonable Man Principle," *Journal of Marketing*, Vol. 41, Number 4, October 1977, pp. 92-97.
13. (With R.T. Green and W.H. Cunningham) "The Importance of Ipsatization in Cross-Cultural Research," *Public Opinion Quarterly*, Fall 1977, pp. 379-384.
14. (With J.H. Murphy and G. Wilcox) "The Influence of Program Environment on Humorous and Non-Humorous Advertising," *Journal of Advertising*, June 1979.
15. (With R.T. Green) "Working Wives in the United States and Venezuela: A Cross-National Study," *Journal of Comparative Family Studies*, Vol. X, Number 1, Spring 1979.
16. (With R.T. Green) "Family Purchasing Roles in Two Countries," *Journal of International Business Studies*, Vol. XI, Number 2, Spring/Summer 1980.
17. (With W.H. Cunningham and V.J. Blasko) "Advertising for Lawyers: An Exploratory Study of Four Different Appeals," SMA Proceedings, Ronald D. Taylor, John H. Summey, Blaise J. Bergiel, Editors; Southern Marketing Association, November 1981.

18. (With G. Kozmetsky and R. Peterson) "An Investigation of the Perceptions of Capitalism Among Texas Business Leaders," paper, Institute for Constructive Capitalism, Austin, Texas, 1981.
19. (With G. Kozmetsky and R. Peterson) "Issues of Concern Among Major Demographic Groups," paper, Institute for Constructive Capitalism, Austin, Texas, 1981.
20. (With R. Peterson and G. Kozmetsky) "Perception of News Media Toward Business," *Journalism Quarterly*, January 1982.
21. (With A. Hardy and G. Imperia) "Generic Brands versus National Brands and Store Brands," *Journal of Advertising Research*, October/November 1982.
22. (With G. Kozmetsky) Institute Paper, "Constructive Capitalism – Readings", Institute for Constructive Capitalism, Austin, Texas 1982.
23. (With G. Kozmetsky and R. Peterson) "A Definition of Capitalism - Its Theoretical and Practical Implications," paper, Institute for Constructive Capitalism, policy series, 1982.
24. "A Influencia dos Sistemas Interativos nas Tecnicas de Marketing," *Anais do II Enbra*, September 1982.
25. (With R.T. Green, et al) "Societal Development and Family Purchasing Roles: A Cross-National Study," *Journal of Consumer Research*, March 1983.
26. (With R. Peterson, G. Albaum and G. Kozmetsky) "Attitudes of Newspaper Business Editors and General Public Toward Capitalism," *Journalism Quarterly*, Spring 1984, pp. 56-65.
27. (With R. Godoy) "Psychosocial Characteristics of Battered Women - Information for Communication," Proceedings of the 23rd International Congress of Psychology, Acapulco, Mexico, September 1984.
28. (With C. Lee) "A Comparison of the Short-Run Relative Effectiveness of Free Samples vs. Advertising on Consumers' Attitudes Toward a Convenience Product - An Experiment," *Current Issues and Research in Advertising*, 1984, Vol. I, pp. 109-122.
29. (With G. Wilcox and L. Williams) "Targeting the Affluent: Implications for Advertisers," in Proceedings from the 12th International Seminar in Marketing Research, I.R.E.T. - La Londe sur Les Maures, May 1985, pp. 43-67.
30. (With L. James) "A Profile of Direct Marketing Television Shoppers," *The Journal of Direct Marketing*, 1987, Vol. 1, No. 4, pp. 12-23.
31. (With R. Ohanian) "Application of Primacy-Recency in Comparative Advertising," *Current Issues & Research in Advertising*, 1987, Vol. 10, Nos. 1 & 2, pp. 99-121.
32. (With W.H. Cunningham) "Stanley C. Hollander: The Scholar Behind Marketing and Retail Theory," *Historical Perspectives in Marketing*, Terence Nevett and Ronald A. Fullerton, Editors; Lexington Books, 1988, pp. 5-7

33. (With Kristen Stewart) "Media as an information broker: The impact of type on user behavior and content perceptions-a model", Journal of Advertising Research (in press).
34. (With Davit Davtyan and Kristin Stewart) "Comparing Brand Placements and Advertisements on Brand Recall and Recognition", Journal of Advertising Research (forthcoming).
35. (With Davit Davtyan) "An Investigation of Brand Placement Effects on Brand Attitudes and Purchase Intentions: Brand Placements versus TV Commercials", Journal of Business Review (reviewed and resubmitted).
36. (With Mary Dunn, Hye Koh, Dr. Kristin Stewart, Dr. Matt Kammer-Kerwick "Big Model Paper: Device Credibility and Message Quality", Psychology and Marketing (P&M) (under peer review).
37. (With Kristin Stewart and Hye Koh) "Examining digital advertising using an affect transfer hypothesis", Journal of Research in Interactive Marketing, March 2018.
38. (With Davit Davtyan and Armen Tashchian) "Effectiveness of Brand Placements in Music Videos on Viewers' Brand Memory, Brand Attitude, and Behavioral Intentions", European Journal of Marketing, July 2020.
39. (With Robert Peterson and Jeffrey Peterson) "Measuring Source, Affiliation, and Permission Likelihood of Consumer Confusion in Trademark Infringement Litigation", Journal of Public Policy and Marketing, pending, September 2021.

### **PRESENTATIONS AND CONFERENCE PAPERS**

\*From 1991 forward, Dr. Cunningham has made presentations to University and community groups too numerous to list.

1. (With W.T. Anderson and W.H. Cunningham) "Personality and Status-Oriented Promotional Appeals," presented at the Southern Marketing Association, November 11, 1972, in Washington, D.C.
2. (With R. Moore and W.H. Cunningham) "Product Distribution Strategy in Semi-Industrialized Countries," presented at the Academy of International Business, December 27, 1973, New York, N.Y.
3. (With R.T. Green and W.H. Cunningham) "A Cross-Cultural Study of Subjective Product Attributes," presented to the Association of Consumer Research, November 8-11, 1973, New York, N.Y.
4. (With R.T. Green) "Family Purchase Decisions: Substantial Changes Could Result from Women's 'Liberated' Attitudes," presented to the Research Seminar in Marketing, June 4-10, 1974, Senanque Abbey, France.
5. (With R.T. Green and W.H. Cunningham) "A Cross-Cultural Study of Product Attribute Importance," presented to the American Psychological Association, August, 1974, New Orleans, LA.
6. (With W.H. Cunningham) "Food Retailing in Sao Paulo, Brazil," presented to the Southern Marketing Association, November, 1975, New Orleans, LA.



7. Panel Member: "Television Advertising to Children," Southwest Marketing Association, March 7, 1981, New Orleans, LA.
8. "Advertising for Lawyers: An Exploratory Study of Four Different Appeals," presented to the Southern Marketing Association Annual Conference, November, 1981, Atlanta, GA.
9. Panel Member: "Teaching Advertising and Promotional Strategy," Mid-South Marketing Conference, April, 1982, Long Beach, MS.
10. Presenter: "The Role of Department Chairmen in Advertising Education," Mid-South Marketing Conference, April, 1982, Long Beach, MS.
11. Lecturer: "Internationalizing the Advertising Curriculum," Third Annual AMA Faculty Consortium, July, 1983, Atlanta, GA.
12. Chair, Promotional Track, 1983 Southern Marketing Association Educators' Conference, Atlanta, GA.
13. "The Importance of Planning and Strategy for Direct Selling," presented at the Annual Meeting of Direct Selling Educational Foundation, April 11-12, 1985, Dallas, TX.
14. (With G. Wilcox and L. Williams) "Targeting the Affluent: Implications for Advertisers," presented at the 12th International Seminar in Marketing Research, I.R.E.T. La Londe sur Les Maures, May 29-31, 1985.
15. Moderator, Roundtable Discussion: "The Latino Challenge to Opinion Polling in the U.S.," Conference on Ignored Voices: Public Opinion Polls and the Latino Community, October 18, 1985, The University of Texas at Austin.
16. Panelist: Council of the Americas Business Environment Roundtable on Brazil, December 3, 1985, Houston, TX.
17. "Panorama do varejo nos Estados Unidos - Exemplos e licoes para hoje e amanha," presented to 1 Simposio de Administracao e Marketing do Varejo, April 7, 1988, Sao Paulo, Brazil.
18. Panelist: Society for Marketing Professional Services November 21, 1988, Austin, TX.
19. Panelist: Texas Travel Summit '91 "Foundations for Excellence," September 30-October 2, 1991, Fort Worth, Texas.
22. Presenter: Graduate Student Presentation "New Trends in Media," Universidad Mayor, November 13-19, 2007, Santiago, Chile.
23. Panelist: Representing the University at the Brazil Center, June 18-24, 2009, Rio de Janeiro, Brazil.
24. Presenter: Advertising Executive Master at UGAP-Union Guatemalteca De Agencias De Publicidad, May 10-13, 2009, Guatemala City, Guatemala.

25. Presenter (refereed paper): American Academy of Advertising Conference “Quick Service Restaurant Advertising and Consumption in the United States 1986-2007” with Sara Kamal and Gary B. Wilcox, March 18-21, 2010, Minneapolis, MN.
26. Key Note Speaker for the Jornadas Fronterizas Border Workshop presented by IC2 Institute, November 11, 2011, Austin, TX.
27. (Co-Author With Kristin Stewart and Mary Dunn): “How Media Factors Influence Trust in Advertising for Baby Boomers: A Consumer-Media Relationship Model of TV”, paper presented in competitive session at the American Academy of Advertising, Chicago, IL, March 2015.
28. (Co-Authored With Mary Dunn, Hye Koh, Dr. Kristin Stewart, Dr. Matt Kammer-Kerwick “Big Model Paper: Device Credibility and Message Quality”, paper will be presented at the American Marketing Association Conference, Chicago, IL, August 2016.

### **ONGOING RESEARCH**

- Co-Authored “Examining Video Advertising Effectiveness: The Effect of Product Category, Moderated by Purchase Involvement, and Platform Type”, with Mary Dunn.
- Co-Authored “Advertising as a Context and Product Attribute Typicality: A counterbalance-congruence hypothesis of product positioning”, with Mary Dunn.
- Co-Authored “Effects of Viewers’ Involvement on the Effectiveness of Brand Placements” with Davit Davtyan, ongoing work supported by IC2 Grant (to be submitted to the Journal of Current Issues and Research in Advertising, June 2016).
- Co-Authored “Examining Video Advertising Effectiveness: The Effect of Product Category, Moderated by Product Involvement and Platform Type” with Kristen Stewart, (work supported by IC2 Grant).
- Co-Authored “Exploring the Values of the Millennial Generation in Black and White” with Kevin Thomas.
- Co-Authored “Consumers’ Media as an information broker: The impact of ‘type’ on user behavior and content perceptions-a model.” with Kristin Stewart, submitted.
- Co-Authored “How media influence consumers’ trust in advertising: The role of use frequency, motivation and expectancy.” with Kristin Stewart.
- Co-Authored “Beyond the Background: Affecting responses in video advertising by varying music prominence and evoked arousal.” with Kristin Stewart and Vinnie Cicchirillo.

- Co-Authored “An analysis of music prominence in advertising: Propositions for further research.” with Kristin Stewart, Allison Auchter and Ben Wyeth.
- Co-Authored “Nobody puts music in the corner: The effect of music prominence and musically evoked arousal in advertising, on consumers’ evaluative brand judgments and choice (Submitted to: Journal of Business Research) with Kristin Stewart and Vinnie Cicchirillo.
- Co-Authored “Sensory Media Project. Does the device type affect the decision making process: attitudes towards the ad, brand, purchase intention and intentions to seek (Submitted to: Journal of Marketing Research) with Kristin Stewart.
- Co-Authored “Click through on mobile devices. The impact of mobile device type on consumer’s decision to receive more information (In preparation for submission to: Psychology and Marketing) with Kristin Stewart.

### **GRANTS, RESEARCH AWARDS**

- Stan Richards Campaign-successfully raised \$7.5 million to name the Stan Richards School of Advertising & Public Relations, 2011-2015.
- IC2 Research Grant (\$25,000), 2014-2016.
- USAA Future Payments Project, 2011.
- Principal Investigator for TxDOT Strategic Marketing Program, 2011-2014.
- Faculty Fellow, IC2 Institute, The University of Texas, 2008-2009, 2009-2010, 2010-2011, 2011-2012, 2012-2013, 2013-2014 and 2014-present.
- Recipient of the Robert C. Jeffrey College Benefactor Award, 2009-2010
- United States Postal Service Advertising Grant, 1997
- Internal Revenue Service Automated Filing Campaign, 1996
- Institute for Constructive Capitalism Grant, CKP Project on Capitalism, September, 1979 to 1983 - several ongoing research papers with Dr. George Kozmetsky and Dr. Robert Peterson.
- University Research Institute Grant, Fall 1976, to investigate "The Effectiveness of Bilingual Advertising."
- University Research Institute, Fall 1977, to investigate "Advertising of Professional Service-Lawyers."
- Austin Women's Center Research Grant, "A Study of Women Entrepreneurs," 1975.

- Outstanding Paper Award, "Advertising for Lawyers: An Exploratory Study of Four Different Appeals," Southern Marketing Association, November 1981.
- Institute of Human Development and Family Studies Grant for a Gerontology Project, May 1984.
- University of Cincinnati Direct Marketing Policy Center Grant to study "A Profile of Direct Marketing Television Shoppers," July 1985.
- Eckerd's Drugstores Research Grant to study "Differential Perceptions of National and Private Label Branded Nonprescription Drugs," Fall 1986.
- Institute of Human Development and Family Studies Grant to study "Aging and Self-Medication Decision Processes," Spring 1987.
- Institute of Human Development and Family Studies Grant to study "An Analysis of the Process of Persuasion on Younger and Older Adults," June 1987.
- Extension of University of Cincinnati Direct Marketing Policy Center Grant to study Shopping Behavior, May 1987.

#### **Ph.D. COMMITTEES CHAIRED**

- Dr. Cunningham has served and continues to serve as both chair and member of numerous doctoral committees and numerous masters' committees. The committees are too numerous to mention. Dr. Cunningham's students have achieved high honors and prestigious academic positions in the United States and abroad.

#### **EDITORIAL BOARDS - CURRENT**

- Member, Editorial Board of Journal of Current Issues and Research in Advertising, 1979 to present.
- Member, Editorial Board of Journal of Advertising, 1990 to present.
- Member, Editorial Board of Journal of Managerial Issues, 1988 to present.
- Member, Editorial Review Board of Journal of Marketing, 1992 to present.
- Member Editorial Review Board of Journal of Advertising Research 1992 to present.
- Member Editorial review Board of Journal of International advertising 1998 to present



**EDITORIAL BOARDS - PREVIOUS**

- Member, Editorial Board of European Journal of Marketing.
- Consultant and Reviewer, Prentice Hall Publishing Company.

**UNIVERSITY COMMITTEES****Former Member of:**

- Accessions Committee - The University of Texas Art Museum, 1987-2000
- Austin/UT Council, 1992 to 2000
- Ad Hoc Committee for the Allan Shivers Centennial Chair in Communication, 1998 to 2000
- Special Committee to Study the Funding of UT Men's and Women's Athletic Programs, 1982 to 1984
- Texas Excellence Awards Selection Committee, 1992 to 2000
- Committee on International Programs and Studies
- The Ronya Kozmetsky Centennial Lectureship for Women in Management
- Ad Hoc Committee on Intercultural/International Communication
- Ex-Students' Association Scholarship Committee
- Chairman, Committee to Select the Dean of the School of Communication, 1978
- Chairman, Consultative Committee to Advise the President Concerning the Selection of the Vice President for Academic Affairs, 1979 to 1980
- UT Faculty Women Steering Committee, 1985

**Current Member of:**

- Moody College of Communication Advancing Distance and Continuing Education Committee, 2015-2016
- Moody College of Communication Promotion and Tenure Committee, 2015-2016
- Chair (Incoming), Admissions and Registration Committee, 2015-2016
- Member, General Faculty Rules and Governance Committee, 2014-2016
- Member, Admissions and Registration Committee, 2014-2015
- Moody College of Communication Promotion and Tenure Committee, 2014-2015
- Chair, Presidential Enrollment Task Force, 2008-2009
- Chair, Presidential Enrollment Task Force, 2004-2005
- Member, Presidential Curricular Reform Task Force, 2005-2006

- International Studies and Programs Committee, The University of Texas, 2000 to present
- Administrative Council, College of Communication President's EEO Committee, 1985 to present
- Brazilian Studies Committee, 1992 to present
- Latin American Collection Advisory Board, 1985 to present
- UT Press Advisory Committee, 1995 to present
- UT Women's Athletics Hall of Fame Selection Committee, 1992 to present
- ILAS Undergraduate Advisory Committee, 1985 to present
- Department of Advertising Alumni Relations Committee and Promotion Committee Representative, 1985 to present
- College of Communication Promotion and Tenure Committee, 1993 to 2005, 2004-2006

**Ad Hoc Member of:**

- College of Communication Advisory Council, 1978 to 1985, and 2002 to 2015.

**UNIVERSITY AND COMMUNITY SERVICE**

- Department of Public Safety Consultant, 1975 to 1976.
- Served as Consultant - Austin Women's Center, 1975 to 1976.
- First Vice-President, Austin Advertising Club, 1977-78, President 1978 to 1979.
- Faculty Sponsor for Women in Communication, Incorporated (WICI), 1978 to 1979.
- Faculty Sponsor, MBA Women's Association, 1980 to 1982.
- Member, Public Access to Lawyers Committee, State Bar of Texas, 1980 to 1985.
- Member, Austin Diocese Committee for Communication, 1981 to 1985.
- UT Delegate to the AIAW Annual Convention, Detroit, 1982.
- Co-Chairman, Committee to Establish Advertising Ethical Standards, Texas Student Publications Board, 1982 to 1983.
- UT Delegate to the NCAA Annual Convention, San Diego, January 1983; Dallas, January 1984.
- UT Delegate to NCAA Special Convention, New Orleans, June 20-21, 1985.
- Member of the Austin/UT Council, 1984 to 1985.
- Member, Austin Mental Health Association Board, 1985 to 1986.
- Member, Holy Cross Hospital Board of Trustees, 1985 to 1986.

- Member, Austin Lyric Opera Board of Trustees, 1986 to 1987.
- Member, South Central Texas Chapter Arthritis Foundation Board of Directors, 1987 to 1988.
- Member, Daughters of Charity Health Services of Austin Planning Council, 1986 to present; Chair, 1987 to 1988.
- Member, St. David's Hospital Women's Health Advisory Council, 1987 to 1988.
- Member, 1987 International Business Fellows Program.
- Member, 1988 International Business Fellows Selection Committee.
- Member, City of Austin Child Care Commission, and Chair of Public Awareness Committee, 1987.
- Member, Marketing and Publicity Committee, Capitol Area Boy Scouts of America Round-Up Planning Committee, 1987 to 1988.
- Faculty Advisor, Beta Alpha Phi International Honor Society, 1987 to 1990.
- Member, Capitol Area Boy Scouts of America Executive Board, 1987 to 1992; Advisory Council, 1992 to 1998.
- Member, Board of Texas State Committee of National Museum of Women in the Arts, 1987 to 1992; Co-chair, 1988 to 1990.
- Member, Tourism Advisory Committee, Texas Department of Commerce, 1988 to 1991.
- Member, Special Populations Media Subcommittee, American Cancer Society, Texas Division, Inc., 1988 to 1990.
- Member, Advisory Board, Premiere 1989 Gala (Promoting Dallas Communication Industry), 1988.
- Member, Board of Communities in Schools-Austin, 1989 to 1990.
- Member, Austin Diocesan Forum, 1988 to 1992.
- Member, Austin Chamber of Commerce National Public Relations Committee, 1989 to 1990.
- Member, Marketing Committee of the United Way/Capitol Area, 1991 to 1992.
- Member, Campaign Executive Committee of the Allan Shivers Radiation Therapy Center, 1991 to 1993.
- Member, Lone Star Girl Scout Council's Mirrors Project, 1992 to 1997.
- Member, The Settlement Club, 1986 to 1990; Associate Member, 1991 to present.
- Member, Texas Hill Country Wine and Food Foundation, 1999- 2005
- Member, Board of Susan G. Komen Breast Cancer Foundation, and Campus Sponsor for "Race for the Cure", 1986 to 1990
- Member, Sunset Advisory Commission, 1995 to 1997, appointed by the Lieutenant Governor.
- Member, Board of Directors of Austin Smiles, 1992 to 2000

- Member, Austin Theater for Youth, 1995 to 2000.
- Member, Jocalia Investment Group, (\$200,000 invested) 1978 to 2010.
- Member, Advisory Board of Trustees of the National Wildflower Research Center, 1986 to 2006.
- Member, St. Edward's University Board of Trustees, 1985- present.
- Member, Board of National Museum of Natural History, Smithsonian Institution, 1993 to 2007.
- Member, Texas Advisory Board of the Children's Defense Fund, 1999 to present.
- Member, Advisory Board of the Texas Medical Association Foundation 1999 to present.
- Member, Advisory Board of the Texas Heart Fund, 1999 to 2007.
- Member, Advisory Board of eCampus Tours, 2012.

### **PROFESSIONAL ASSOCIATIONS**

- The Wine and Food Association, Emeritus Board Member, 2010-2011
- American Academy of Advertising
- American Marketing Association
- Brazilian Bar Association
- Southern Marketing Association
- Austin Advertising Club - President 1978 to 1979
- American Advertising Federation
- Advertising Research Foundation

### **HONORS**

- Beta Gamma Sigma
- Phi Kappa Phi
- Who's Who of American Women
- Who's Who of Young Women
- Who's Who in America
- Who's Who in Advertising

### **CORPORATE BOARDS**

- Member Franklin Federal Bank Board of Directors, 1985 to 1987 (Member Audit Committee, Chair Marketing Committee)
- Member, RepublicBank Northwest Board of Directors, 1987 to 1990; RepublicBank Williamson Co. Advisory Board, 1987 to 1988.
- Advisory Director, Wells Fargo Bank, 1996-2001
- Member of the Board of Directors of Dupont Photomasks, 2001 to 2005 (Audit Committee member, Chair of Governance Committee)
- Member, Cornell Companies Board of Directors, 2004 to 2005 (Audit Committee member, Governance Committee member)
- Member of the Board of Directors of XILIX Corporation (a privately held company), 2001 to 2008.
- Member, VIAD Company Board of Directors (Chairman of Marketing and Innovation Committee, Member of Audit and Corporate Governance and Nominating Committee), 2005 to 2019.
- Member, Advisory Board, Le Metier De Beaute, New York, 2008 to 2014.
- Member, Advisory Council, Pyrix Company, Austin, 2008 to 2019.
- Member, Board of Directors (Chair of IT Committee, Member of Audit and Loan Committee), Pioneer Bank of Texas, 2007 to 2021.
- Member, Board of Directors, Sunflower Bank, 2021 to present.
- Member, Board of Directors, FirstSun Capital Bancorp, 2021 to present.

### **CONSULTING**

- Appointed consultant to the Cotton Board, 1984 to 1986.
- Chairman of the Board of the University Co-op (\$10,000,000 annual sales), 1979 to 1980; member of the Board of the University Co-op 1978 to 1982.
- Research Consultant - RGK Foundation, 1981 to 1984.
- Research Consultant - Metropolitan Research, Inc., 1975 to 1985. Served as consultant to British American Tobacco; Lone Star Beer Company, Lamar Savings; Romeo and Associates Advertising Agency; J-Wise Properties Ltd.; HEB Food Stores; Brooks, Johnson, & Zausmer Advertising; Bonner McLane Advertising; Denmark Shop; Texas Savings and Loan League; The Alpha Group (Mexico); Southland Corporation; Texas Pharmaceutical Association.

- Expert Witness in legal cases involving advertising worked with Texas Attorney General's Office (John Hill and David Talbot) in Austin; Richard Shannon in Dallas; Don Grissom in Dallas; Hector De Leon in Austin; David Sapp in Austin; and Paula Hinton of Vinson and Elkins in Houston.
- Consultant for Advertising and Mass Communications for several non-profit organizations: The National Wildflower Research Center, St. Michael's Academy, Texas Mental Health Association, Wild Basin Park Board of Trustees, 1984 to present.
- Worked with Arnold & Porter, Jones Day, Fulbright & Jaworsky, Ted Lee, Gendry & Sprague, Benckenstein & Oxford, Vinson & Elkins, Gunn & Lee, Shook, Hardy & Bacon, and Adams & Reese on several cases as an Expert Witness since 1992. Some of the cases for which expert witness services were rendered are: Class action suit against ARCO et al. involving several states (New York, Rhode Island, Massachusetts, Ohio, Connecticut) regarding advertising of lead paint; three class action suits involving plaintiffs in Texas, Oklahoma, and California against Compaq, eMachines and Hewlett Packard for sales of defective products (still ongoing); a class action suit against American Tobacco, plaintiff: the State of Sao Paulo, Brazil (worked with Adams & Reese); Bayou City Ford v. Sterling., Houston; Mark Phipps & Phipon Inc. v. Praxair Inc., 1998, (worked with Eimer Stahl Klwon & Solby (Chicago); Karopa v. MPII et al., in Bexar County; Service Experts Co. v. Service Master Co. et al, (with Patton Boggs, Dallas), 2004; Clark Ford Inc. v. Ford Motor Co. (with Sapp & Sapp), 2002; Methodist Health Care System of San Antonio, Ltd. v. Medicath Corporation, 2003; FTC v. Exxon Corp., (with Covington & Burley), 1996; Nemesys Music Technology v. East West Communication, Inc. (with Taylor & Dunham) 2000; in addition Dr. Cunningham testified in a number of cases regarding corporate names and advertising for insurance companies in the State of Texas (Texas Insurance Commission) working with Hector De Leon from 1996 to 2000.
- Dr. Cunningham has been retained as an expert witness in several ongoing cases.



# **Exhibit B**

July 2022

**Dr. Isabella Cunningham**  
**Cases Retained as an Expert Witness**

Cases starting in 2009 until 2022.

- ☐ \*American Airlines Inc. v. Yahoo! Inc. and Overture Services Inc., d/b/a/Yahoo! Search Marketing (Cantey Hanger LLP-Dallas and its correspondent California Law Firm) 2009
- ☐ Michael Angelo v. Buitoni (Pirkey Barber in Austin) 2010
- ☐ Merrick Pet Care v. Blue Buffalo Company, LTD. (Pirkey Barber in Austin) 2011
- ☐ American Airlines v. Sabre Travel (Cantey Hanger LLP) 2011
- ☐ \*Louisiana Fish Fry Products, Ltd. v. Bruce Foods, Inc. (Roy Kiesel, Ford Doody & Thurmon) 2011
- ☐ North American Pipe Corp. v. Benjamin Media Inc. (Schultz & Associates, P.C.) 2011
- ☐ Daniel R. Castro v. Entrepreneur Media, Inc., (Latham & Watkins) 2011
- ☐ Robin Singh Educational Services Inc. v. Test Masters Educational Services Inc. (Pirkey Barber) 2011
- ☐ Nestle Toll House v. Log House Foods, (Mayer Brown LLP) 2011
- ☐ \*TGIF v. Stripes, (Pirkey Barber) 2012
- ☐ \*Eastman Chemical v. Plastipure, Inc. and Certichem, Inc. (Fritz, Byrne, Head & Harrison, PLLC) 2012
- ☐ \*Peveto Companies, Ltd. v. Brakes Plus, Inc. (Wojciechowski & Associates, P.C.) 2013
- ☐ Louangel, Inc. et al. v. Darden Restaurants, Inc. (Gunn, Lee & Cave, P.C.) 2013
- ☐ \*Kurt Tompkins et al. v. Brookstone, Inc., et al (Cantor Colburn LLP) 2013
- ☐ \*Dines v. Toys “R” Us (Morgan, Lewis & Bockius LLP) 2014
- ☐ Pines Nursing Home v. RehabCare (Broad and Cassell) 2014
- ☐ MD Anderson Cancer Center (Pirkey Barber) 2014
- ☐ General Mills (Pirkey Barber) 2014
- ☐ \*Amy’s Ice Creams, Inc. v. Amy’s Kitchen, Inc. (Pirkey Barber) 2014
- ☐ \*U.S. Risk Insurance Group, Inc. v. United States Risk Management, LLC (Ford Nassen & Baldwin, P.C.) 2014
- ☐ \*Durrset Amigos, Ltd. d/b/a Amigos Foods v. Amigos Meat Distributors, L.P. (Gunn, Lee & Cave, P.C.) 2016
- ☐ Greenberg Smoked Turkeys v. Yahoo (Kilpatrick, Townsend & Stockton LLP) 2016
- ☐ Kurt Dieter Loeblich et al. v. Metro Vapors, LLC (Carter, Scholer, Arnett, Mockler) 2016
- ☐ Fellen et al v. RehabCare et al (Broad and Cassel) 2016
- ☐ Jarabes Veracruzanos, Inc. v. Interbrands Group, LLC, et. al. (Norton, Rose, Fulbright) 2016
- ☐ 4D Innovations, Inc. and Skipco, Inc. v. BPS Direct LLC and Water Sports, LLC (Pillsbury, Winthrop, Shaw, Pittman LLP) 2016
- ☐ \*YETI Coolers, LLC v. RTIC Coolers, LLC, Jacob Jacobsen, and James Jacobsen (Banner & Witcoff, Ltd.) 2017
- ☐ PLIS v. US Risk (Almanza, Blackburn, Dickie & Mitchell LLP) 2017
- ☐ Silly Rabbit v. Walmart, LLC (Gunn, Lee & Cave, P.C.) 2018
- ☐ Rosta AG v. Lovejoy, Inc. (Revision Legal, PLLC) 2018

July 2022

- Snyder's-Lance Inc., and Princeton Vanguard v. Frito-Lay North America (Pirkey Barber PLLC) 2018
- Radiant Plumbing Service, Inc., v. Reliant Plumbing & Drain Cleaning, LLC and Max Hicks (C. Ashley Callahan, P.C.) 2018
- Spartan Chemical Company v. Ecolab (Pirkey Barber PLLC) 2018
- Texas Children's Hospital v. Kwok Daniel LTD, LLP, Robert S. Kwok, and Thomas J. Daniel (Jackson Walker LLP) 2019
- Boom Chica Pop v. Skinny Pop (Taft Stettinius & Hollister LLP) 2019
- Springboards to Education, Inc. v. Idea Public Schools (Schulman, Lopez, Hoffer & Adelstein, LLP) 2019
- Heartbrand Holdings, Inc v. Grant Whitmer III Report (Gunn, Lee & Cave, P.C.) 2019
- Teeter-Totter LLC. v. Palm Bay International, Inc., Palm Wine Holdings, LLC, J Vineyards & Winery LLC D/B/A AU CONTRAIRE, RB Wine Associates, LLC. (Ferdinand IP Law Group) 2019
- Feld Motor Sports, Inc. v. Mattel, Inc. (Pirkey Barber) 2020
- \*Barrio Bros, LLC et al v. Revolucion, LLC et al. (Weston Hurd) 2020
- \*Epic Tech, LLC v. Fusion Skill, Inc. (Wick Phillips) 2020
- Curated Works, Inc. v. Deal.com, Inc. and Global, Inc. (Norris McLaughlin P.A.) 2020
- Literati, LLC v. Literati, Inc. (Pirkey Barber) 2020
- Weems Industries, Inc, d/b/a Legacy Manufacturing Company vs Flexon Industries Corp. (Brick Genry P.C.) 2020
- Alertus Technologies LLC v. Desktop Alert Inc. and Howard Ryan (Norris McLaughlin P.A.) 2020
- Radiant Plumbing Service, Inc. v. Radiant Electrical Services, LLC and James Dougherty (Law Offices of Ashley Callahan, P.C.) 2020
- Weems Industries, Inc d/b/a Legacy Manufacturing Company, v. Teknow Apex Company (Brick Gentry P.C.) 2021
- Disney – Diece-Lisa Industries, Inc. Declaration in opposition to defendant's motion for summary judgement (Whitaker Chalk Swindle & Schwartz PLLC) 2021
- \*IN-N-OUT Burgers v. Doll N Burgers LLC et al. (Warner Norcross + Judd LLP) 2021
- IZZE-Preliminary report on likelihood of confusion. (Pirkey Barber) 2021
- BMC Software, Inc. v. Baker Hughes, a GE Company, LLC. And Baker Hughes Company (Baker Botts L.L.P) 2021
- Adam Lyons v. Insurancezebra, Inc. Db a TheZebra.com (Vinson & Elkins LLP) 2021
- Ben Abbott & Associates PPLC v. Angel Reyes & Associates, P.C. d/b/a Reyes, Browne, Reilley, and Springzip, LLC, d/b/a Lnjury.com (Hunton Andrews Kurth LLP) 2021
- \*Luckenbach Texas, Inc. v. Stewart Skloss, Stemma Holdings, L.P., Luckenbach Road Whiskey Distillery, LLC, Luckenbach Whiskey, LLC, LRW Ventures, LLC, Frontier Spirits, LLC, and Pura Vida Spirits Company, LLC (Gunn, Lee & Cave, P.C.) 2021
- Promotion in Motion, Inc., v. The J. M. Smucker Company (Cowan, Liebowitz & Latman, P.C.) 2022

July 2022

- Kamino Trade Federation, Inc. v. IMDB.com, Inc., Amazon Technologies, Inc., and Amazon.com, Inc. (Wick Phillips) 2022
- \* Weems Industries, Inc d/b/a Legacy Manufacturing Company, v. Teknow Apex Company (Brick Gentry P.C.) 2022

\*Cases where Dr. Cunningham provided testimony at deposition or trial